IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 26TH FEBRUARY 2007 / 7TH PHALGUNA 1928

WP(C).No. 34070 of 2006(E)

PETITIONER:

B. RATHAPACHANDRAN NAIR,
PRESTIGE SODA & SOFT DRINKS,
THONNALLOOR, PANDALAM, PATHANAMTHITTA DISTRICT.

BY ADV. SRI.C.B.SREEKUMAR

RESPONDENTS:
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1. **STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, COMMERCIAL TAXES, SECRETARIAT, TRIVANDRUM.**

2. **THE SALES TAX OFFICER, ADOOR.**

3. **THE DEPUTY TAHASILDAR (R.R.), ADOOR.**

BY GOVERNMENT PLEADER SMT.M.K.PUSHPALATHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO. 34070/2006

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE APPELLATE ORDER AND GROUNDS OF DECISION PASSED BY THE DEPUTY COMMISSIONER (APPEALS), COMMERCIAL TAXES, KOLLAM, IN RESPECT OF THE YEAR 2003-04 DT.29.4.06.

EXT.P2:- COPY OF THE ORDER OF ASSESSMENT PASSED BY THE 2ND RESPONDENT IN RESPECT OF THE YEAR 03-04 DT.17.6.06.

EXT.P3:- COPY OF THE NOTICE IN FORM NO.1 ISSUED BY THE 2ND RESPONDENT DT.21.3.06.

EXT.P4:- COPY OF THE NOTICE IN FORM NO.10 ISSUED BY THE 2ND RESPONDENT DT.21.3.06.

EXT.P5:- COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER TO THE 1ST RESPONDENT DT.18.11.06.

EXT.P6:- COPY OF THE RECEIPT ISSUED BY THE VILLAGE OFFICER, PANDALAM VILLAGE DT.19.1.07.

/TRUE COPY/

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K.BALAKRISHNAN NAIR,J.

WP(C)NO.34070 OF 2006-E

Judgment

The petitioner challenges Exts.P3 and P4 revenue recovery notices. His grievance is that those notices issued to collect sales tax from him due for the year 2003-04 cannot be enforced in view of the Ext.P2 revised assessment order of the said year dated 17.06.2006.

2. I heard the learned Government Pleader appearing for the respondents also. Since Exts.P3 and P4 were issued on 21.03.2006, it is clear that they were issued without taking note of Ext.P2 revised assessment order issued on 17.06.2006. Accordingly, Exts.P3 and P4 are quashed. The respondents are free to issue a revised demand based on Ext.P2 and collect the same, if so far no fresh demand has been issued. If a revised demand is already issued, the respondents can pursue that.

The Writ Petition is disposed of as above.

26.02.2007 **K.BALAKRISHNAN NAIR,JUDGE**

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